

**REMARKS**

Claims 6 and 8 have been amended for clarification purposes and claims 10, and 12-33 have been canceled. New claims 34-46 have been added. These amendments are not intended to narrow the scope of these claims. The claims have been rewritten to place them in better form for examination and to further obviate the 35 U.S.C. §112 rejections set forth in the Office Action dated October 3, 2002. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is requested.

Applicant acknowledges the objections raised by the Examiner regarding the statement of deposit and the ATCC Accession No. Upon allowance of the claims in this application, the deposit will be made with American Type Culture Collection at which time the claims will then be amended with the Accession Number.

Claims 6-33 are rejected under 35 U.S.C. §112, second paragraph as being indefinite.

Claim 6 is rejected for the recitation of "wherein said plant is male sterile". Claim 6 has been amended.

Claim 8 is rejected for improper antecedent basis. Applicant has amended claim 8.

Claims 10, 24 and 30 are rejected in the recitation of "using" and "utilizing" of a composition without any active or positive steps. Claims 10, 24 and 30 have been canceled.

Claims 13-14 are rejected. Claims 13-14 have been amended as suggested by the Examiner.

Claim 15 is rejected as being unclear how "different" the plants are. Claim 15 has been canceled.

Claim 16 is rejected and has been canceled.

Claim 17 is rejected and has been canceled.

Claims 19-25 are rejected as indefinite in the recitation KW4636-derived corn plant. Applicant has canceled claims 19-25.

Claims 19-25 and 29 are rejected as indefinite for several terms rendering the claims indefinite. Applicant has canceled claims 19-25 and 29.

Claims 26-27 are rejected as being unclear. Applicant has canceled claims 26-27.

Claim 31 is rejected for improper antecedent basis. Claim 31 has been canceled.

Claim 27 is rejected. Claim 27 has been canceled.

Claim 28 is rejected. Claim 28 has been canceled. Withdrawal of these rejections is respectfully requested.

Claims 1-33 are rejected under 35 U.S.C. §112, first paragraph for enablement. Upon allowance of the claims in this application, the deposit will be made with American Type Culture Collection. As stated in the specification on page 37, the seed deposit is being maintained by AgReliant Genetics at their Lebanon, Indiana facility. The deposit will be available to the Commissioner during the pendency of this application and upon allowance of any claims, deposit of the corn seed will be made with the American Type Culture Collection.

The undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of these rejections is requested.

Claims 17 and 18 are rejected under 35 U.S.C. §112, first paragraph for enablement. Applicant has canceled claims 17 and 18. Withdrawal of this rejection is respectfully requested.

Claims 26-28 and 33 are rejected under 35 U.S.C. §112, first paragraph for enablement. Applicant has canceled claims 26-28 and 33. Withdrawal of this rejection is respectfully requested.

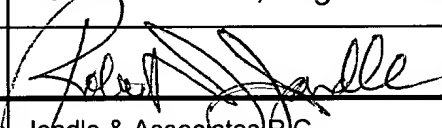
Claims 12-16 and 19-33 are rejected under 35 U.S.C. §112, first paragraph as containing subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has canceled claims 12-16 and 19-33. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12-16, 19-25 and 27-32 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Foley (US Patent 5,973,239). Applicant has canceled claims 12-16, 19-25 and 27-32. Applicant respectfully requests withdrawal of this rejection.

Attached hereto is a marked-up version of the changes made to the specification by the current amendment. The attached page is captioned "**Version with markings to show changes made.**"

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §§102, 103 and 112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
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**Attachments:** Marked-Up Copies of Claims

**AMENDED CLAIMS - Version with markings to show changes made**

Please cancel claims 10 and 12-33.

Please amend claims 6 and 8.

Please add new claims 34-46 as shown below:

6. (AMENDED) The corn plant of claim 2, wherein said plant is ~~male-sterile~~ detasseled.

8. (AMENDED) ~~A~~ The tissue culture according to claim 7, the cells or protoplasts ~~of the tissue culture being from~~ said cells having been isolated from a tissue selected from the group consisting of protoplast and calli, wherein the regenerable cells are derived from meristematic cells, leaves, pollen, embryo, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

34. (NEW) A hybrid corn seed wherein fifty percent of its genetic material originates from the pollen of claim 3.

35. (NEW) A hybrid corn seed wherein fifty percent of its genetic material originates from the ovule of claim 4.

36. (NEW) A method for producing a transgenic corn plant comprising transforming the corn plant of claim 2 with a transgene wherein the transgene confers a characteristic selected from the group consisting of: herbicide resistance, insect resistance, resistance to bacterial disease, resistance to fungal disease, resistance to viral disease, male sterility and corn endosperm with improved nutritional quality.

37. (NEW) A transgenic corn plant produced by the method of claim 36.

38. (NEW) A method of producing a male sterile corn plant comprising transforming the corn plant of claim 2 with a transgene that confers male sterility.

39. (NEW) A male sterile corn plant produced by the method of claim 38.

40. (NEW) A method of producing an herbicide resistant corn plant comprising transforming the corn plant of claim 2 with a transgene that confers herbicide resistance.

41. (NEW) A herbicide resistant corn plant produced by the method of claim 40.

42. (NEW) A method of producing an insect resistant corn plant comprising transforming the corn plant of claim 2 with a transgene that confers insect resistance.

43. (NEW) An insect resistant corn plant produced by the method of claim 42.

44. (NEW) A method of producing a disease resistant corn plant comprising transforming the corn plant of claim 2 with a transgene that confers disease resistance.

45. (NEW) A disease resistant corn plant produced by the method of claim 44.

46. (NEW) The corn plant of claim 2, further comprising a single gene conversion where the gene confers a characteristic selected from the group consisting of: male sterility, herbicide resistance, insect resistance, resistance to bacterial disease, resistance to fungal disease, resistance to viral disease and corn endosperm quality.